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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,891	02/02/2004	Richard Finocchio	12406/16	1102
7590	08/04/2005		EXAMINER	
Andrew L. Reibman, Esq. KENYON & KENYON One Broadway New York, NY 10004			LAYNO, BENJAMIN	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/770,891	FINOCCHIO, RICHARD	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 24-29 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-23, 30 and 31 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/19/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-23, 30 and 31, drawn to the method of play, classified in class 273, subclass 139.
 - II. Claims 24-29, drawn to lottery system apparatus, classified in class 463, subclass 16.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the lottery system apparatus can be used as parking ticket machines found in parking garages of shopping malls. Parking ticket machine issues a parking ticket to a customer at the entrance to the garage. The machine tracks the amount of time the customer is parked in the garage. A second ticket, discount ticket, is issued to a customer at one of the stores in the shopping mall. The customer redeems the initial parking ticket and the second ticket (discount ticket) at an exit terminal, and pays a discount parking fee upon leaving the garage.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Andrew Reibman on 08/01/05 a provisional election was made with no indication of traverse to prosecute the invention of the method of play, claims 1-23, 30 and 31. Affirmation of this election must be made by applicant in replying to this Office action. Claims 24-29 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 5-11, 13-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Monopoly Game at McDonald's.

7. The Monopoly Game at McDonald's discloses a method of playing a game of chance. The game comprises an initial ticket in the form of an insert in a newspaper. The initial ticket (insert) comprises a game play information including a Monopoly game board property spaces printed on the ticket, and a pair of pull tab game stamps. The game further comprises additional tickets or a second ticket in the form of french fry boxes or soft drink cups. The additional tickets or a second ticket comprises additional game play information in the form of pull-tab game stamps. To play the game a customer receives an initial ticket (insert) from a newspaper, and pulls the pull-tabs to reveal the game stamps. Each game stamp has indicia thereon

representing one of the property spaces on the Monopoly game board. The player combines or matches the revealed game stamps with the property spaces by sticking the game stamps to the corresponding property spaces on the Monopoly game board. To continue the game, the customer goes to McDonald's and purchases a second ticket in the form of a french fry box, or soft drink cup, and pulls the pull-tabs on the French fry box or soft drink cup, to reveal the game stamps. The player combines the revealed game stamps with the property spaces by sticking the game stamps to the corresponding property spaces on the Monopoly game board of the initial game ticket. When a customer collects all property game stamps of the same color (e.g. Green: "Pennsylvania Avenue", "North Carolina Avenue", "Pacific Avenue"), the initial ticket is a winning ticket, and is redeemed.

Claim Rejections - 35 USC § 102 or § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 12, 18, 20, 21 and 23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Monopoly Game at McDonald's.

10. The Monopoly Game at McDonald's includes a cash prize of \$1 million dollars if a customer collects the "Boardwalk" and "Park Place" property stamps. It would have been obvious, or it would be inherent for McDonald's management to maintain a log that includes

information regarding previously sold game tickets to verify the winning ticket, and thereby preventing fraud.

11. In order for McDonald's to afford to give away prizes such as the "\$1 million dollars", "\$200,000 Dream Home Cash Prize", "Jaguar XK8 Convertible", etc., it is inherent that McDonald's acquired these prizes by populating a prize pool through customer purchases (profits).

Claim Rejections - 35 USC § 103

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

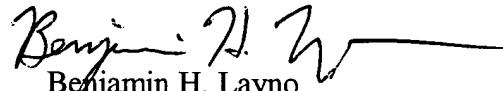
13. Claims 4, 22, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monopoly Game at McDonald's as applied to claim 1 above, and further in view of Dietz, II et al.

14. The patent to Dietz, II et al. teaches that it is known in the pull-tab game art to provide a bar code 24 to each of the pull-tab tickets. In view of such teaching, it would have been obvious to provide bar codes to each of the tickets in the Monopoly Game at McDonald's game. This modification would have provided a more accurate means for validating winning tickets.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571)272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Benjamin H. Layno
Primary Examiner
Art Unit 3711